

	U.S. ENVIRONMENTAL PROTECTION AGENCY Cooperative Agreement		ASSISTANCE ID NO.		DATE OF AWARD 05/23/2006	
			PRG	DOC ID		AMEND#
			XA - 96619701 - 0			MAILING DATE 05/31/2006
			TYPE OF ACTION New			
			PAYMENT METHOD: ASAP			
RECIPIENT TYPE: Indian Tribe			Send Payment Request to: Las Vegas Finance Center			
RECIPIENT:			PAYEE:			
Cherokee Nation P.O. Box 948 Tahlequah, OK 74465 EIN: 73-0757033			Cherokee Nation P.O. Box 948 Tahlequah, OK 74465			
PROJECT MANAGER		EPA PROJECT OFFICER		EPA GRANT SPECIALIST		
Randall Gee P.O. Box 948 Tahlequah, OK 74465 E-Mail: rgee@cherokee.org Phone: 918-453-5088		Aunjane Gautreaux 1445 Ross Avenue, Suite 1200, 6PD-Q Dallas, TX 75202-2733 E-Mail: gautreaux.aunjane@epa.gov Phone: 214-665-7127		Belenthia Epps Procurement and Grants Section, 6MD-RX E-Mail: Epps.Belenthia@epamail.epa.gov Phone: 214-665-8390		
PROJECT TITLE AND DESCRIPTION Community Air Toxics The purpose of this cooperative agreement is to monitor for toxics in ambient air to determine the amounts and types of Volatile Organic Compounds (VOC) in the Cherokee Heights tribal community near Pryor in Mayes County, Oklahoma.						
BUDGET PERIOD 06/01/2006 - 05/31/2008		PROJECT PERIOD 06/01/2006 - 05/31/2008		TOTAL PROJECT PERIOD COST \$165,000.00		
				TOTAL BUDGET PERIOD COST \$165,000.00		
NOTE: The Agreement must be completed in duplicate and the Original returned to the appropriate Grants Management Office listed below, within 3 calendar weeks after receipt or within any extension of time as may be granted by EPA. Receipt of a written refusal or failure to return the properly executed document within the prescribed time, may result in the withdrawal of the offer by the Agency. Any change to the Agreement by the Recipient subsequent to the document being signed by the EPA Award Official, which the Award Official determines to materially alter the Agreement, shall void the Agreement.						
OFFER AND ACCEPTANCE						
The United States, acting by and through the U.S. Environmental Protection Agency (EPA), hereby offers Assistance/Amendment to the <u>Cherokee Nation</u> for <u>100.00</u> % of all approved costs incurred up to and not exceeding <u>\$165,000</u> for the support of approved budget period effort described in application (including all application modifications) cited in the Project Title and Description above, signed <u>01/17/2006</u> included herein by reference.						
ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)			AWARD APPROVAL OFFICE			
ORGANIZATION / ADDRESS			ORGANIZATION / ADDRESS			
Management Division, 6MD-RX 1445 Ross Avenue, Suite 1200 Dallas, TX 75202-2733			U.S. EPA, Region 6 Multimedia Planning & Permitting Division 1445 Ross Avenue, Suite 1200 Dallas, TX 75202-2733			
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY						
SIGNATURE OF AWARD OFFICIAL		TYPED NAME AND TITLE		DATE		
		Carl E. Edlund, P.E., Director, Multimedia Planning and Permitting Division (6PD)		05/23/2006		
This agreement is subject to applicable U.S. Environmental Protection Agency statutory provisions and assistance regulations. In accepting this award or amendment and any payments made pursuant thereto, (1) the undersigned represents that he is duly authorized to act on behalf of the recipient organization, and (2) the recipient agrees (a) that the award is subject to the applicable provisions of 40 CFR Chapter 1, Subchapter B and of the provisions of this agreement (and all attachments), and (b) that acceptance of any payments constitutes an agreement by the payee that the amounts, if any found by EPA to have been overpaid will be refunded or credited in full to EPA.						
BY AND ON BEHALF OF THE DESIGNATED RECIPIENT ORGANIZATION						
SIGNATURE		TYPED NAME AND TITLE		DATE		
		Chad Smith, Principal Chief		06/08/2006		

XA - 96619701 - 0 Page 2

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$	\$ 165,000	\$ 165,000
EPA In-Kind Amount	\$	\$	\$ 0
Unexpended Prior Year Balance	\$	\$	\$ 0
Other Federal Funds	\$	\$	\$ 0
Recipient Contribution	\$	\$	\$ 0
State Contribution	\$	\$	\$ 0
Local Contribution	\$	\$	\$ 0
Other Contribution	\$	\$	\$ 0
Allowable Project Cost	\$ 0	\$ 165,000	\$ 165,000

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.034 - Surveys-Studies-Investigations-Demonstrations and Special Purpose Activities relating to the Clean Air Act	Clean Air Act: Sec. 103	40 CFR PART 31

[illegible]

Budget Summary Page: Cherokee Air Toxics FY'05

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$31,769
2. Fringe Benefits	\$11,078
3. Travel	\$9,011
4. Equipment	\$6,995
5. Supplies	\$3,400
6. Contractual	\$77,000
7. Construction	\$0
8. Other	\$13,600
9. Total Direct Charges	\$152,853
10. Indirect Costs: 17.64% Base \$68,858	\$12,147
11. Total (Share: Recipient 0.00 % Federal 100.00 %.)	\$165,000
12. Total Approved Assistance Amount	\$165,000
13. Program Income	\$0

Administrative Conditions

This Assistance Agreement is awarded in accordance with the **Federal Grants and Cooperative Agreement Act of 1977**. Areas of substantial EPA involvement, beyond the normal exercise of performance evaluation and program review, have been detailed in specific output objectives which resulted from negotiation between EPA and the recipient. These areas are included in the application for this award and have become a part of this Agreement.

1. The recipient covenants and agrees that it will expeditiously initiate and timely complete the project work for which assistance has been awarded under this Agreement, in accordance with all applicable provisions of **40 CFR Chapter 1, Subchapter B**. The recipient warrants, represents, and agrees that it and all its contractors, employees and representatives, will comply with all APPLICABLE provisions of **40 CFR Chapter 1, Subchapter B, INCLUDING BUT NOT LIMITED TO** the provisions of **40 CFR Parts 31, 32, 34, and 35**. This award may be reduced or terminated at such time the recipient fails to comply with the program objectives, grant award conditions, or Federal reporting requirements.
2. Recipient standards of administration, property management, procurement and financial management, as well as records and facilities of recipients, their contractors and subcontractors are subject to audit and inspection by the Comptroller General of the United States and the U.S. Environmental Protection Agency in accordance with Office of Management and Budget (OMB) Circulars A-87, A-102, or A-110, as appropriate, A-133 and 40 CFR Part 31. The recipient's standards governing procurement will be in accordance with 40 CFR, Part 31.36 and OMB Circular A-102. The recipient shall maintain a financial management system which meets the requirements of 40 CFR Part 31.20.
3. Any State agency or agency of a political subdivision of a State which is using appropriated Federal funds shall comply with the requirements set forth in Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962). Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.
4. In accordance with EPA Order 1000.25 and Executive Order 13101, Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition, the recipient agrees to use recycled paper for all reports which are prepared as a part of this agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration. Please note that Section 901 of Executive Order 13101, dated September 14, 1998, revoked Executive Order 12873, Federal Acquisition, Recycling, and Waste Prevention in its entirety.
5. In accordance with **40 CFR Part 31.41**, the recipient shall submit an **annual Financial**

Status Report (FSR), Standard Form 269 or 269A, to:

Grants Team (6MD-RX)
U. S. Environmental Protection Agency, Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

The final Financial Status Report (FSR) is due on or before 90 days after the end of the budget period. In accordance with Agency policy, all project expenditures reported by the recipient shall be deemed to include both the Federal and recipient share of the expenditures.

The final Financial Status Report (FSR) shall be submitted to:

**U.S. Environmental Protection Agency
Las Vegas Finance Center
P.O. Box 98515
Las Vegas, Nevada 89193-8515**

6. The recipient agrees to ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds, complies with the Hotel and Motel Fire Safety Act of 1990.
7. Under the Paperwork Reduction Act of 1995, Office of Management and Budget (OMB) clearance must be obtained prior to collecting information from 10 or more persons and will use EPA's name while collecting the information under this project. The term "person" means an individual, partnership, association, corporation, business, trust, or legal representative, an organized group of individuals, a State, territory, or local government or branch thereof, or a political subdivision of a State, territory, or local government or a branch of a political subdivision. The EPA Project Officer is responsible for requesting clearance from OMB.
8. In accordance with OMB Circular A-133, the recipient shall obtain a single audit if it expends \$500,000 or more a year in federal awards. The recipient shall also submit a copy of the audit report to:

Grants Team (6MD-RX)
U.S. Environmental Protection Agency, Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

9. **QUALITY MANAGEMENT PLAN (QMP)** - The recipient will submit an update or revision of the Quality Management Plan annually to the Region Quality Assurance Manager (6MD) for approval, or a certification that the plan is current, and include a copy of the recipient's new approval pages for the QMP.
10. **QUALITY ASSURANCE PROJECT PLAN (QAPP)** - **Sixty days prior to the initiation**

of any environmental measurements or data generation, the recipient shall submit to the EPA Project Officer, for review and approval, a written Quality Assurance Project Plan (QAPP) for this grant project. The QAPP shall comply with the guidelines specified in the document entitled "EPA Requirements for Quality Assurance Project Plans for Environmental Data Operations", EPA QA/R5. If any change is required after EPA approval, the recipient must notify the Project Officer **immediately** and request approval for the change **prior to implementation**. At the end of each Federal Fiscal Year, September 30, the grantee shall certify in writing to the EPA Project Officer that the QAPP is current, and include a copy of the recipient's new approval pages for the QAPP.

Any costs for environmental measurements or data generation incurred prior to approval of the Quality Assurance Project Plan by the EPA Project Officer will be ineligible for reimbursement.

11. The recipient agrees to follow the six affirmative steps stated in 40 CFR 31.36(e), 35.3145(d) or 35.6580, as appropriate, and to require its prime contractor to follow these affirmative steps if it awards subcontracts; the recipient also agrees to retain records documenting compliance.

The six affirmative steps contained in 40 CFR 31.36(e) are as follows:

- (i) Placing qualifying small and minority businesses and women's business enterprises on solicitation lists;
- (ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
- (iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
- (v) using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and
- (vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed (i-v) above.

The recipient agrees to submit an EPA Form 5700-52A, "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" beginning with the Federal fiscal year quarter the recipient receives the award and continuing until the project is completed. The reports must be submitted to the EPA Regional MBE/WBE Coordinator within 30 days of the end of each Federal fiscal quarter (January 30, April 30, July 30, and

October 30). (Reporting form available at www.epa.gov/osdbu.)

In accordance with Section 129 of Public Law 100-590, the Small Business Administration and Reauthorization and Amendment Act of 1988, the recipient agrees to utilize and to encourage any prime contractors under the assistance agreement to utilize small businesses located in rural areas to the maximum extent possible through the use of the six affirmative steps.

12. The Federal share of allowable expenditures chargeable to this assistance project will be financed by the EPA through the U.S. TREASURY AUTOMATED STANDARD APPLICATION FOR PAYMENTS (ASAP) SYSTEM.

The recipient will strictly adhere to the accounting and reporting procedures described in the EPA-ACH Recipient's Manual for the duration of the project. Three conditions should receive special attention:

- a. Cash drawdowns will be made only as actually needed for disbursements.
- b. The recipient will provide timely reporting of cash disbursements and balances through semi-annual submission (within fifteen (15) days after June 30 and December 31 of each calendar year) of a Federal Cash Transactions Report (SF-272) to:

U.S. Environmental Protection Agency
Las Vegas Finance Center
P.O. Box 98515
Las Vegas, Nevada 89193-8515

- c. The recipient will impose the same standards of timing and reporting on secondary recipients, if any.

13. The recipient will not charge or claim for reimbursement any indirect costs until a current indirect cost proposal has been submitted and received by the Department of Interior (DOI). After DOI has received the indirect cost proposal, indirect costs authorized in this award may be reimbursed in accordance with the lower of either the last approved Negotiated Indirect Cost Rate Agreement (ICA) or the proposed rate until the Department of Interior approves the new indirect cost rate.

Pursuant to OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments," Indian tribal government recipients that do not have a previously established indirect cost rate must submit their indirect cost rate proposals to:

National Business Center
Indirect Cost Services
U.S. Department of the Interior
2180 Harvard Street, Suite 430

Recipients are entitled to reimbursement of indirect costs, subject to any statutory or regulatory administrative cost limitations, if they have a current rate agreement or have submitted an indirect cost rate proposal to their cognizant federal agency for review and approval. Recipients are responsible for maintaining an approved indirect cost rate. Recipients with differences between their provisional rates and final rates are not entitled to more than the award amount, without EPA approval.

14. In accordance with 40 CFR 30.27(b) or 31.36(j)(1), EPA's participation in the salary rate (excluding overhead) paid to individual consultants is limited to the maximum hourly rate for a level 4 of the Executive Schedule, which is currently approximately \$68.51 per hour or \$548.08 per day (2006).
15. EPA and the recipient agree to comply with the requirements of the Paperwork Reduction Act in completing the project. Because the scope of work includes a survey, a questionnaire or similar information-gathering activity, the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), requires EPA to obtain Office of Management and Budget (OMB) clearance prior to the recipient's collection of information by means of identical questions posed to 10 or more persons. The recipient will provide to the EPA Project Officer the following information: (1) description of the information to be collected; (2) explanation of the need for the information; and (3) to whom the survey is being directed.
16. Pursuant to EPA's annual Appropriations Act, the chief executive officer of this recipient agency shall require that no grant funds have been used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. As mandated by this Act, the recipient agrees to provide certification to the award official via EPA Form 5700-53, *Lobbying and Litigation Certificate*, within 90 days after the end of project period. The form can be accessed at <http://www.epa.gov/ogd/forms/adobe/5700-53.pdf>.
17. Recipient shall abide by its respective OMB Circular (A-21, A-87, or A-122), which prohibits the use of federal grant funds for litigation against the United States. Any Part 30 recipient shall abide by its respective OMB Circular (A-21 or A-122), which prohibits the use of Federal grant funds to participate in various forms of lobbying or other political activities.
18. The recipient agrees to comply with Title 40 CFR Part 34, *New Restrictions on Lobbying*. The recipient shall include the language of this provision in award documents for all subawards exceeding \$100,000, and require that subrecipients submit certification and disclosure forms accordingly.

In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.

19. In accordance with EPA Order 1000.25 and Executive Order 13101, *Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition*, the recipient agrees to use recycled paper for all reports which are prepared as a part of this agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration. Please note that Section 901 of E.O. 13101, dated September 14, 1998, revoked E.O. 12873, *Federal Acquisition, Recycling, and Waste Prevention* in its entirety.

20. Recipient shall fully comply with Subpart C of 40 CFR Part 32, entitled "Responsibilities of Participants Regarding Transactions." Recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 40 CFR Part 32, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. Recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Recipient acknowledges that failing to disclose the information required under 40 CFR 32.335 may result in the delay or negation of this assistance agreement, or pursuance of legal remedies, including suspension and debarment.

Recipient may access the Excluded Parties List System at www.epls.gov. This term and condition supersedes EPA Form 5700-49, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters."

Programmatic Conditions

1. Quarterly Progress Reports. The recipient agrees to submit quarterly progress reports to the EPA Project Officer within 30 days after the end of each reporting period. The reporting periods begin at the project start date, or, for subsequent reporting periods, on the quarterly anniversary of the start date. The reports should generally not exceed five 8 1/2" X 11" pages and shall provide the information requested below.

- A. Brief statements covering work status, work progress, preliminary data results, and evaluations made during the reporting period, including a comparison of actual accomplishments with the goals and objectives for the period. Address difficulties encountered (or might encounter) in carrying out this project and remedial actions (to be) taken. If the aims of the project have not changed from the original application, state this. If these have been modified, provide the revised aims and discuss the reason for the modification.
- B. A discussion of any absence or changes of key personnel involved in the project.
- C. A discussion of expenditures to date along with a comparison of the percentage of the project completed to the project schedule, and an explanation of any costs which are higher than originally estimated. Revised budget information will be required under this agreement if any significant changes in the size or scope of the project or in the originally-negotiated total estimated costs are anticipated for the project period.
- D. Statements addressing how the quality assurance requirements of 40 C.F.R. 30.54 and the agreement are being met, especially focusing on the assurance of data quality relevant to environmental measurements and data generation.
- E. Results to date, emphasizing findings and their significance to the field, their relationship to the general goals of the award, and their potential practical applications.
- F. Planned activity for the subsequent reporting period, including a description of equipment, techniques, and materials to be used or evaluated.
- G. Publications arising from this project. Copies of publications and reprints which have not previously been submitted to the Agency should be enclosed with the report.

2. Final Report. The recipient agrees to submit a final report to the EPA Project Officer by 90 calendar days after the expiration of the project period. The Project Officer may require clarifications of the final report before the report is considered acceptable. Although there are no page restrictions on the final report, EPA does not expect a final report of great length. However, this document shall include a discussion of:

A. Project activities over the entire period of funding, describing the recipient's achievements with respect to the stated project purposes and objectives.

B. The complete details of all technical aspects of the project--both negative and positive--the recipient's findings, conclusions, and results, including the associated quality assurance results.

C. An evaluation of (a) the technical effectiveness and economic feasibility of the methods or techniques investigated or demonstrated, if applicable, and/or (b) an explanation of how the project adds to our understanding of / solutions for environmental problems, or is otherwise of benefit to the environment and human health. This discussion should be a minimum of one paragraph long and written in terms understandable by the educated layman.

3. Form of Reports. The recipient agrees to provide quarterly and final reports electronically using commonly available word processing software (e.g., Word®) or PDF format.

4. Quality Assurance, Data Management, and Results Availability.

A. Quality Assurance. The recipient agrees to comply with the requirements of ANSI/ASQC E4, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs." EPA requirements (R-series) and guidance (G-series) documents address in detail how to comply with ANSI/ASQC E4 (particularly pertinent are R-5, "EPA Requirements for Quality Assurance Project Plans," and G-4, "Guidance for the Data Quality Objectives Process"). Referenced R- and G-series EPA documents are available at:
http://www.epa.gov/quality1/qa_docs.html.

B. Data Management and Results Availability. The recipient agrees to ensure all quality assured ambient air data arising from the awarded project are successfully uploaded to the EPA Air Quality System (<http://www.epa.gov/ttn/airs/airsqgs/>) NLT 120 days after the end of each data collection period. The data collection periods begin as of the first date of ambient air monitoring, or, for subsequent reporting periods, on the quarterly anniversary of the start date. Data arising from other than ambient air monitoring will be submitted to the EPA Project Officer on the same schedule using commonly available spreadsheet software (e.g., Excel®).

5. Meeting Attendance. As noted in the original RFA, the recipient agrees to include in the budget funds to present the project results at the Air Toxics Data Analysis Workshop designated by the EPA (U.S. location to be determined); a maximum of two project representatives is authorized; the workshop duration will be up to three days, exclusive of travel time.

6. Other recipient responsibilities.

A. 40 C.F.R. 30.25 (f) allows the recipient to grant itself a one-time extension to the project period under certain conditions; for any such extension of the expiration date the recipient is required to notify the EPA Award Official and Project Officer in writing, with the supporting reasons and revised expiration date, at last 10 days before the expiration date specified in the award.

B. Prior written approval is required from EPA if there is to be a significant project change. Examples of these changes are contained in 40 C.F.R. 30.25.

7. Substantial Involvement. Project management will be closely monitored by EPA representatives throughout the assistance agreement's project and budget period. Effective execution of the scope of work involves a jointly supported strong ongoing collaboration between the recipient and EPA. Technical assistance and cooperation will be routine. EPA and the recipient will maintain a continuous dialogue for the rapid identification, solution, and escalation of problems to top level managers.

